

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RICHARD ANDREW,
Petitioner,

v.

Civil Action No. 04-11895-REK

KENNETH NELSON,
Respondent,

MOTION TO STRIKE

Respondent's Motion to Dismiss

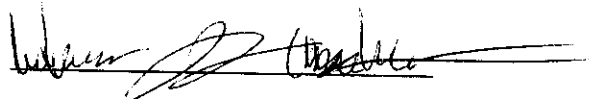
Now comes the petitioner Richard Andreww in the above-captioned action, and respectfully moves this Honorable Court to strike from the record, the respondent's motion to dismiss.

In support hereof the petitioner states;

1. The respondent's motion to dismiss is not by itself sufficient to respond to the court's order.
2. And, "response to a Habeas Corpus petition is not like a motion to dismiss." See *Browder v. Director*, 434 U.S. 257, 269 (1978).
3. The respondent's failure to respond to the merits of the petition has unduly and unreasonably delayed resolution of the petitioner's discreet claims.

WHEREFOR, THE petitioner hopes and prays that this Honorable Court moves to strike the respondent's motion to dismiss and order respondent to respond to the merits of his petition by January 25, 2005. Or the writ shall issue.

Respectfully Submitted,



Richard J. Andrew
pro se petitioner
Cadre Program
20 Administration Rd.
Bridgewater, MA 02324

VERIFICATION DECLARATION

I, Richard J. Andrew, certify that the forgoing information is to the best of my knowledge and belief and that all facts are made under the pains and the penalties of perjury; I am competent to testify to these matters.

A handwritten signature in black ink, appearing to read 'Richard J. Andrew', is written over a horizontal line.

Richard J. Andrew

January 4, 2005